

**REMARKS**

Reconsideration of the application is respectfully requested.

Claims 1, 2, 8, 9, 11, 12, 14-16, 22-24, 28, 31, and 32 are in the application. Claims 3-7, 10, 13, 17-21, 25-27, and 29-30 are presently withdrawn in view of a previous election.

In the Official Action, the Examiner rejected claims 1, 2, 8, 9, 11, 12, 14-16, 22-24, 28, 31 and 32 under 35 U.S.C. §102(b) as being allegedly anticipated by Grabner, Jr. (U.S. Patent No. 5,634,496). The Examiner asserted that "Grabner, Jr discloses is [sic] Figure 5 a tip cap (70) for a syringe (20)".

This rejection is respectfully traversed.

A claim is only anticipated if each and every element of the claim is found in a single prior art reference. See, MPEP §2131. For the reasons set forth below, Grabner, Jr. fails to disclose or suggest each and every limitation of the claims of the subject application.

Grabner, Jr. is directed to a collapsible tube 20, best shown in Figs. 1 and 2. A twist-on cap 55 is provided for the tube 20. The cap 55 includes a cylindrical member 70. (Col. 4, ll. 52-57). As shown in Fig. 6, the cylindrical member 70 has a circular cross-section. As set forth at Col. 4, ll. 62-64, the cylindrical member 70 "can be deformed by finger pressure". During use, a

user applies a squeezing force to the cap 55 to deform the cylindrical member 70 as shown in Figs. 7 and 8. (Col. 5, ll. 11-16). The cylindrical member 70 is resilient to return to its initial shape upon removal of the force. (Col. 5, ll. 18-19). There is absolutely no disclosure or suggestion in Grabner, Jr. of a syringe or of a tip cap for a syringe.

I. Grabner, Jr. Fails to Disclose a Tip Cap For a Syringe or a Syringe

Claims 1 and 15 are the only pending independent claims in the application. Claim 1 is directed to a tip cap for a syringe, while claim 15 is directed to a syringe assembly. As indicated above, there is absolutely no disclosure or suggestion in Grabner, Jr. of a tip cap for a syringe or of a syringe.

Although the limitation of a tip cap for a syringe is in the preamble of claim 1, it is a claim limitation that must be taken into consideration. See, MPEP §2111.02(I) (“Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation.”). Moreover, claim 15 is directed to a syringe assembly which affirmatively claims “a syringe having a tip” and “a tip cap securable to said tip”. There is absolutely no disclosure or suggestion in Grabner, Jr. of these limitations.

II. Grabner, Jr. Fails to Disclose Non-Circular Shape

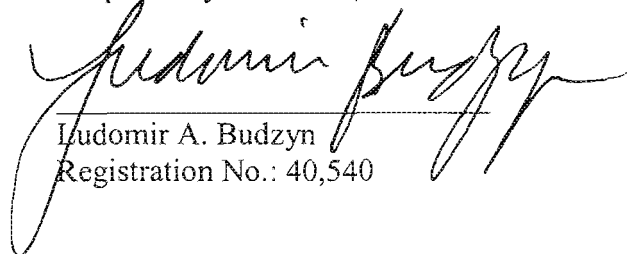
In addition, claim 1 states that the tip cap includes “a body having a top wall extending from said upper surface and having a substantially non-circular cross-section when viewed at an angle substantially perpendicular to said upper surface”. Claim 15 includes a similar limitation

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to this. As indicated above, Grabner, Jr. discloses a deformable wall which is sufficiently resilient to return to its original shape after deformation. However, the shape of the wall is circular, not non-circular. There is no disclosure or suggestion in Grabner, Jr. to provide the claimed structure. In view of the foregoing, it is respectfully submitted that claims 1 and 15, along with dependent claims 2, 8, 9, 11, 12, 14, 16, 22-24, 28, 31 and 32, are patentable over Grabner, Jr.

Favorable action is earnestly solicited. If there are any questions, or if additional information is required, the Examiner is respectfully requested to contact Applicants' attorney at the number listed below.

Respectfully submitted,



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